HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

THURSDAY, THIRTEENTH DAY OF JULY TWO THOUSAND SIX

WRIT PETITION No.14117 of 2006

Between:

M/s. Sri Sairam Iron Merchants,
Tanuku. .. Petitioner

And

Commercial Tax Officer, Tanuku-I Circle.

..Respondent

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ORDER: (Per Hon'ble Sri JC, J)**:**

Aggrieved by a decision of the sole respondent dated 28-09-2005, the present writ petition is filed with a prayer as follows:-

> "Declaring the action on the part of the respondent in ignoring or overlooking or in not considering the claim application made by the petitioner in Form VAT-115 duly enclosed by the statement along with the Computer floppy giving all the details and particulars with regard to the stock, as illegal, arbitrary, unjust, improper and contrary to the provisions of APVAT Act and consequently set aside the impugned proceedings dated 28-09-2005 in VAT-126 in TIN No.286040200381 as the order is passed without there being any reasons and without application of mind as held by this Hon'ble Court in 41 APSTJ 99 and direct the respondent to consider the claim of the petitioner for grant; of sales tax paid in respect of

the opening stock of the paints as on 01-04-2005 already made in terms of the claim application in Form VAT-115, supported by statement of purchases."

2. According to the petitioner, the impugned notification of refusal dated 28-09-2005 was communicated to him on 17-10-2005. The order is clearly an appealable order under Section 31 of the APVAT Act, 2005. Without availing the remedy of the appeal, the petitioner now approached this Court by way of the present writ petition almost after lapse of nine months. In substance, it is an attempt to circumvent prescription of law regarding limitation to file the appeal.

3. We are afraid to admit such a writ petition. Considering such a case in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, in the absence of any satisfactory explanation as to delay, would defeat the law, for which purpose the jurisdiction of this court can never be exercised.

4. Accordingly, the Writ Petition is dismissed. No costs.

(J.CHELAMESWAR, J)

(D.APPARAO, J)

July 13, 2006.
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